

Consultation and Coordination with Indian Tribal Governments

Comparison of Executive Orders

	Executive Order 13175 (11/6/00)	Executive Order 13084 (Revoked)
Section 1	Definitions Adds definitions to “ <u>Policies that have tribal implications</u> ” and “ <u>Tribal officials</u> ”	Definitions State/States, Indian Tribe and Agency
Section 2	Fundamental Principals New section regarding legal relationship with tribal governments based on treaties, statutes, Executive Orders, court decisions, trust relationship and right to self-government	Policymaking Criteria In formulating policies affecting tribal governments, agencies shall be guided by principals of tribal self-government, sovereignty, tribal treaty and other rights and for responsibilities unique legal relationship.
Section 3	Policymaking Criteria Expanded section inclusive of – respect for self-government, sovereignty, maximum administrative discretion, consultation in establishing federal standards, preserve prerogatives and authority of tribes	Consultation - Requires an effective process permitting meaningful and timely input. -To extent possible no agency shall promulgate regulation not required by statute imposing substantial direct compliance costs unless: funds to pay direct compliance costs are provided by federal government -Prior to promulgation provides to OMB description of the agency’s consultation and agency’s position -Provides to OMB written communications submitted to agency by tribe
Section 4	Special Requirements for Legislative Proposals Not submit legislation inconsistent with Section 3	Increasing Flexibility for Indian Tribal Waivers -Review process under which tribes apply for waivers -To extent permitted by law consider applications for waivers, render decisions within 120 days
Section 5	Consultation Adds to previous EO a requirement for accountable process: - Within 30 days designate a official with principal responsibility - Within 60 days submit to OMB a description of agency’s consultation process - Provide tribal summary impact statements, extent of consultation with tribes, nature of tribal concerns, agency’s position and the extent to which tribal concerns have been met.	Cooperation in Developing Regulations Agency should explore and where appropriate use consensual mechanisms for developing regulations, including negotiated rulemaking on issues relating to self-government and trust resources.
Section 6	Increasing Flexibility for Indian Tribal Waivers No noted change from previous EO section	Independent Agencies Encouraged to comply with EO
Section 7	Accountability New section – requires compliance certification of designated official	General Provisions Intended to improve internal management, supplement EOs 12866 (Regulatory Planning & Review), 12988 (Civil Justice Reform), OMB Circular A-19 and 4/24/94 Executive Memorandum on Govt-Govt relationships with Tribal Governments. Shall complement sections 4 & 5 of EO on Federalism
Section 8	Independent Agencies No noted change from previous EO section	
Section 9	General Provisions Order effective January 6, 2001 (60 days after 11/6/00 signature date)	
Section 10	Judicial Review New section addressing EO intent to improve internal management of executive branch (previously captured as part a of General Provision section in previous EO)	